

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

PFIZER INC

and

REBECCA LYNN OLVEY MARTIN, an Individual

**Cases 10-CA-175850
07-CA-176035**

and

JEFFREY J. REBENSTORF, an Individual

RESPONDENT’S MOTION TO EXTEND TIME FOR FILING EXCEPTIONS

Respondent Pfizer Inc (“Pfizer” or “Company”) respectfully submits this motion to extend the time to file exceptions to the Administrative Law Judge’s decision until twenty-eight days after the Supreme Court issues its decision in *Epic Sys. Corp. v. Lewis*, No. 16-285 (U.S. Sept. 2, 2016); *Ernst & Young, LLP v. Morris*, No. 16-300 (U.S. Sept. 8, 2016); and *NLRB v. Murphy Oil USA, Inc.*, No. 16-307 (U.S. Sept. 9, 2016).

On January 10, 2017, Administrative Law Judge Keltner W. Locke issued a decision finding that Pfizer’s Mutual Arbitration and Class Waiver Agreement (“Arbitration Agreement”) violates the Act, following the Board’s decision in *Murphy Oil USA, Inc.*, 361 NLRB No. 72 (2014). The order transferring this proceeding to the Board issued that same day.

Just three days later, on January 13, 2017, the Supreme Court granted certiorari in *Epic Sys. Corp. v. Lewis*, No. 16-285 (U.S. Sept. 2, 2016); *Ernst & Young, LLP v. Morris*, No. 16-300 (U.S. Sept. 8, 2016); and *NLRB v. Murphy Oil USA, Inc.*, No. 16-307 (U.S. Sept. 9, 2016), and consolidated those cases for decision by the Court. See https://www.supremecourt.gov/orders/courtorders/011317zr_q8l1.pdf (last visited January 17, 2017).

Cases in the federal courts of appeals are being held in abeyance, either *sua sponte* or at the Board's request, pending the outcome of the proceedings before the Supreme Court. *See, e.g., Advanced Services, Inc. v. NLRB*, Case No. 15-3988 (8th Cir.) (January 18, 2017 order granting Board's request to hold case in abeyance pending the Supreme Court's decision).

Just as the Board has found it appropriate to request that cases in the courts of appeals be held in abeyance, it would be appropriate for the Board to extend the time for filing exceptions to the Administrative Law Judge's decision in this case. Accordingly, Pfizer respectfully requests that the Board extend the time for filing exceptions and briefs in support until twenty-eight days after the Supreme Court issues its decision in *Murphy Oil, et al.* The parties and the Board would be best served by conserving their resources until then, rather than expending resources briefing an issue when the legal landscape may soon change. *See Pratt Institute*, 339 NLRB 971, 971 (2003).

We have conferred with counsel for the General Counsel regarding this motion, and the General Counsel does not oppose this extension of time. Counsel for the Charging Party has not expressed a view on this motion.

Dated: January 20, 2017

Respectfully submitted,

/s/ Jonathan C. Fritts
Jonathan C. Fritts
David R. Broderdorf
MORGAN, LEWIS & BOCKIUS LLP
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
(202) 739-3000
(202) 739-3001
jonathan.fritts@morganlewis.com
david.broderdorf@morganlewis.com

Counsel for Respondent Pfizer Inc

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion to Extend Time for Filing Exceptions was served, via e-mail, on January 20, 2017, upon the following:

Steven M. Stastny, Esq.
P.O. Box 430052
Birmingham, AL 35243-1052
smstastny@gmail.com

Jeffrey J. Rebenstorf
23980 44th Ave.
Mattawan, MI 49071
ellenrebenstorf@gmail.com

Joseph W. Webb
Counsel for the General Counsel
National Labor Relations Board
Region 10 – Birmingham Resident Office
1130 22nd Street South
Ridge Park Place Suite 3400
Birmingham, Alabama 35205
Joseph.Webb@nrlrb.gov

/s/ Jonathan C. Fritts